

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Paul Baron	Team: Team # 4	CCRB Case #: 201004869	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 04/09/2010 3:30 PM	Location of Incident: 7th Avenue between 14th and 15th Streets	Precinct: 13	18 Mo. SOL 10/9/2011	EO SOL 10/9/2011	
Date/Time CV Reported Tue, 04/13/2010 2:17 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Tue, 04/13/2010 2:23 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM David Sansone	02861	939414	006 PCT
2. An officer			
3. POF Charlotte Garofalo	05528	915772	006 PCT
4. POM Sean Doorley	21151	938387	006 PCT
5. POM Eugene Cummings	19703	929974	006 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM David Sansone	Abuse: PO David Sansone stopped § 87(2)(b)	
B.POF Charlotte Garofalo	Abuse: PO Charlotte Garofalo stopped § 87(2)(b)	
C.POM Sean Doorley	Abuse: PO Sean Doorley stopped § 87(2)(b)	
D.POM Eugene Cummings	Abuse: PO Eugene Cummings stopped § 87(2)(b)	
E. An officer	Discourtesy: An officer spoke obscenely to § 87(2)(b)	

Case Summary

§ 87(2)(b) filed a complaint on the CCRB Website on April 13, 2010 (**enc. 5**). He reported that on April 9, 2010, § 87(2)(b) and two other individuals were walking along 7th Avenue, between 14th Street and 15th Street, in Manhattan, when § 87(2)(b) was forcibly stopped by several officers because she matched the description of a robbery suspect. § 87(2)(b) was not witness to this incident. No one was arrested or summonsed. The following allegations resulted from the officers' actions.

- **Allegation A- Abuse of Authority:** PO David Sansone stopped § 87(2)(b)
- **Allegation B- Abuse of Authority:** PO Charlotte Garofalo stopped § 87(2)(b)
- **Allegation C- Abuse of Authority:** PO Sean Doorley stopped § 87(2)(b)
- **Allegation D- Abuse of Authority:** PO Eugene Cummings stopped § 87(2)(b) § 87(2)(g)
- **Allegation E- Discourtesy:** An officer spoke obscenely to § 87(2)(b) § 87(2)(g)

§ 87(2)(b)

Results of Investigation

Civilian Statement(s)

Victim: § 87(2)(b)

- § 87(2)(b) -year-old white male, 5'11" and weighs 200 lbs, blonde hair and blue eyes
- § 87(2)(b)

§ 87(2)(b) was interviewed on June 7th, 2010 (**enc. 7**). He viewed three photo arrays on August 24, 2010 (**enc. 8**). On the April 9, 2010, he was walking four adults with developmental disabilities § 87(2)(b) home from their day program. § 87(2)(b) was about 10 yards in front of the rest of the group; she walks quickly and tends to look around a lot when she walks (**enc. 4b**). § 87(2)(b) is a heavy set black female with short black hair and she was wearing a tan jacket. At the incident location, a group of 5-8 uniformed officers ran around § 87(2)(b) and converged upon § 87(2)(b). Without saying anything, 3 to 5 officers (all white males, about 5'7"-6'0" tall, in their 20's or 30's) grabbed § 87(2)(b) by her arms and shoulders and brought her down to the ground in a "controlled" fall. Officers handcuffed § 87(2)(b). § 87(2)(b) ran towards the officers and said, "What the fuck are you doing?" About four uniformed officers ran up to § 87(2)(b) and grabbed him. PO1 yelled at § 87(2)(b) "Who the fuck are you motherfucker? Get the fuck back! Get the fuck back!" PO1 was a white male, about 6'0"-6'2" tall, about 190-200 lbs, with dirty blonde hair in his late 20s-early 30s. § 87(2)(b) explained to the officers that § 87(2)(b) is developmentally disabled and showed the officers his work identification. PO2 (young white male, black hair, 160-170 lbs, about 5'11") realized that the officers made a mistake and the officers apologized. PO1 explained that there had been an armed robbery down the street and

the officers thought the description of the perpetrator (described as a young heavy set black male with a tan jacket) matched § 87(2)(b) § 87(2)(b) was handcuffed for about ten minutes.

§ 87(2)(b) was shown three photo arrays; each one included one officer, (PO Eugene Cummings, PO David Sansone and PO Sean Doorley) and five filler photos. § 87(2)(b) identified only one officer, PO Sansone, as an officer that was present during the incident. He could not identify the subject officer of the discourtesy allegation.

Victim: § 87(2)(b)

- § 87(2)(b) -year-old black female, 5'3" and weighs 217 lbs, short black hair and brown eyes.

§ 87(2)(b) provided a statement on May 26th, 2010 (enc. 6). § 87(2)(g)

§ 87(2)(b) was wearing a light beige jacket. Three uniformed police officers (PO1-light skinned male, taller than 5'3", muscular build, blonde hair; PO2- male; PO3-dark skinned female, long black hair, heavy set, shorter than 5'3") approached her from behind, grabbed her elbows and dragged her down to the ground, such that she was on her knees. PO1 handcuffed her and a male officer reached his hand inside § 87(2)(b)'s pockets. § 87(2)(b) was checked by a nurse at her residence; her knees hurt, but she did not have visible injuries.

Attempts to Contact Civilians

§ 87(2)(g)

NYPD Statement(s):

Memo Book Entries

Witness Officer: DAVID SANSONE (enc. 9)

1459: 10-30 at Chase Bank, strong-arm, black male, 5'10", tan jacket, short hair

1505: one female black stopped at corner of 15th Street and 7th Avenue, hands on person and taken to the ground from behind.

1510: show up negative; UF-250 prepared from stop; no injuries reported from person stopped; woman stopped is mentally retarded and confused from the stop; 10-93Q.

NYPD Document(s)

911 Call

- Caller ("§ 87(2)(b) stated that a female was robbed at an ATM at the Chase Bank at 158 W14th Street. No weapons. The perp went past the victim, grabbed her money out of the machine and ran off. The perp is a 5'10", black male, medium to light skin, very short hair, tan jacket or shirt. Perp was standing on the corner of 14th Street and 7th Avenue and then was gone. The police arrived and the call ended (enc. 12a).

Radio Communications

- Dispatch reported that a female was robbed at 158 W 14th Street inside the Chase bank at the ATM (enc. 4a). Sector 6H responded to the bank. Dispatch stated that perp was a black male, medium to light complexion, short hair 5'10" tan jacket or shirt; standing on the corner of W 14th Street and 7th Avenue. Sector 6A arrived at W 14th Street and 7th Avenue. Sector 6H stated they were with the complainant. An unknown sector announced over the radio that the perp went into the subway. A different sector announced that perp is still standing at the

corner at 15th Street; stating “He is walking fast and crossing the street right now, he is still walking, he is still walking, you got him, he is right there, you got him.” Sector 6E stated the perp was in custody at 15th Street and 7th Avenue. Sector 6H stated that they had the complainant and were doing a show up on W 16th Street and 7th Avenue. Sector 6 Sergeant stated that the show up was negative, and that new information was coming in that the perp went into the subway. Sector 6A closed the case by filing a complaint report (**enc. 12-13**).

6th Precinct Roll Call

- The roll call indicated that POM David Sansone and POF Charlotte Garofalo were assigned to Sector 6E and POM Sean Doorley and POM Eugene Cummings were assigned to sector 6A for Tour 2 on the incident date (**enc. 15**).

Officer Photos

- PO Cummings is a § 87(2)(b) old white male, 6', 190 pounds, with brown hair. PO Doorley is a § 87(2)(b) old white male, 6'1", 240 pounds, with brown hair. PO Sansone is a § 87(2)(b) old white male, 6', 185 pounds, with brown hair (**enc. 11**).

Stop and Frisk Logs

- The incident occurred in the 6th Precinct and PO Sansone’s memo book indicated that a stop and frisk report was filed. However, a search of the stop and frisk database did not yield any reports in the 6th Precinct in the timeframe surrounding the incident, nor were there any matching reports filed in the bordering 10th and 13th Precincts (**enc. 4c, 14, 16h**).

Status of Civil Proceedings

- § 87(2)(b) and § 87(2)(b) have not filed a Notice of Claim with the City of New York as of August 11, 2010, with regard to the incident (**enc. 16i**).

Civilians’ CCRB Histories

- This is the first CCRB complaint filed by either § 87(2)(b) or § 87(2)(b) (**enc. 3**).

Officers’ CCRB Histories

- PO Sansone has been a member of the service for five years and there are no substantiated CCRB allegations against him. PO Garofalo has been a member of the service for fifteen years and there are no substantiated CCRB allegations against her. PO Doorley has been a member of the service for five years and there are no substantiated CCRB allegations against him. PO Cummings has been a member of the service for eight years and there are no substantiated CCRB allegations against him (**enc. 2**).

Conclusion

Identification of Subject Officer(s)

§ 87(2)(g)

For the discourtesy allegation, § 87(2)(b) described the subject officer as a white male, about 6'0"-6'2" tall, about 190-200 lbs, with dirty blonde hair, in his late 20s-early 30s. The CCRB determined from the radio run that the first three male officers to respond to the location where § 87(2)(b) was stopped were PO Eugene Cummings, PO David Sansone and PO Sean

Doorley. Because all three officers reasonably matched the description provided by § 87(2)(b) he was shown a photo array for each officer. § 87(2)(b) did not identify any of the officers as the subject officer for this allegation. § 87(2)(g)

Investigative Findings and Recommendations

Allegations Not Pled

§ 87(2)(g)

Allegation A- Abuse of Authority: PO David Sansone stopped § 87(2)(b)

Allegation B- Abuse of Authority: PO Charlotte Garofalo stopped § 87(2)(b)

Allegation C- Abuse of Authority: PO Sean Doorley stopped § 87(2)(b)

Allegation D- Abuse of Authority: PO Eugene Cummings stopped § 87(2)(b)

It is undisputed that the aforementioned officers stopped § 87(2)(b) by grabbing her and bringing her to the ground in a controlled fall, and that she was released as soon as it was determined that she was not the robbery suspect the officers were looking for. According to Kamins, New York Search & Seizure, p. 2-45 (2010 ed.), a police officer may forcibly stop an individual when he has reasonable suspicion that "the person is committing, has committed or is about to commit a crime," and the stop may take the form of "physically subduing an individual" (encl. 1 a-b). § 87(2)(b) was walking quickly away from the incident location, within a few minutes of the reported robbery. Even though § 87(2)(b) is female, when viewed from behind, because of her short hair, she fit the description of the male suspect, as she had the same build, ethnicity, and clothing, as described to the officers by the 911 dispatcher. The dispatcher received the information from an identified citizen who witnessed the robbery, and the radio run indicated that the officers, who approached § 87(2)(b) from behind, believed she was the male subject before they stopped her. As noted in Kamins, p. 2-62, "a 911 call from an identified citizen, describing a person at a specified location who had just committed a violent crime...will provide the police with reasonable suspicion, especially when the defendant is the only person at the location fitting the description, is in close spatial and temporal proximity to the crime, or when the defendant is running from the direction of the reported crime" (enc. 1c). § 87(2)(g)

Allegation E- Discourtesy: An officer spoke obscenely to § 87(2)(b)

§ 87(2)(b) alleged that PO1 said to him, "Who the fuck are you motherfucker? Get the fuck back! Get the fuck back!" § 87(2)(g)

Team: _____

Investigator:	_____	_____	_____
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date